

106TH CONGRESS  
2D SESSION

# S. 2085

To amend title II of the Social Security Act and the Internal Revenue Code of 1986 to provide incentives for older Americans to remain in the workforce beyond the age of eligibility for full social security benefits.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 22, 2000

Mr. LUGAR (for himself, Mr. GREGG, and Mr. BREAU) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title II of the Social Security Act and the Internal Revenue Code of 1986 to provide incentives for older Americans to remain in the workforce beyond the age of eligibility for full social security benefits.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Retired Americans  
5 Right of Employment Act I” or “RARE Act I”.

1 **SEC. 2. ELIMINATION OF EARNINGS TEST FOR INDIVID-**  
 2 **UALS WHO HAVE ATTAINED EARLY RETIRE-**  
 3 **MENT AGE.**

4 (a) IN GENERAL.—Section 203 of the Social Security  
 5 Act (42 U.S.C. 403) is amended—

6 (1) in subsection (c)(1), by striking “the age of  
 7 seventy” and inserting “early retirement age (as de-  
 8 fined in section 216(l))”;

9 (2) in paragraphs (1)(A) and (2) of subsection  
 10 (d), by striking “the age of seventy” each place it  
 11 appears and inserting “early retirement age (as de-  
 12 fined in section 216(l))”;

13 (3) in subsection (f)(1)(B), by striking “was  
 14 age seventy or over” and inserting “was at or above  
 15 early retirement age (as defined in section 216(l))”;

16 (4) in subsection (f)(3)—

17 (A) by striking “33 $\frac{1}{3}$  percent” and all  
 18 that follows through “any other individual,”  
 19 and inserting “50 percent of such individual’s  
 20 earnings for such year in excess of the product  
 21 of the exempt amount as determined under  
 22 paragraph (8),”; and

23 (B) by striking “age 70” and inserting  
 24 “early retirement age (as defined in section  
 25 216(l))”;

1 (5) in subsection (h)(1)(A), by striking “age  
 2 70” each place it appears and inserting “early re-  
 3 tirement age (as defined in section 216(l))”; and

4 (6) in subsection (j)—

5 (A) in the heading, by striking “Age Sev-  
 6 enty” and inserting “Early Retirement Age”;  
 7 and

8 (B) by striking “seventy years of age” and  
 9 inserting “having attained early retirement age  
 10 (as defined in section 216(l))”.

11 (b) CONFORMING AMENDMENTS ELIMINATING THE  
 12 SPECIAL EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE  
 13 ATTAINED AGE 62.—

14 (1) UNIFORM EXEMPT AMOUNT.—Section  
 15 203(f)(8)(A) of the Social Security Act (42 U.S.C.  
 16 403(f)(8)(A)) is amended by striking “the new ex-  
 17 empt amounts (separately stated for individuals de-  
 18 scribed in subparagraph (D) and for other individ-  
 19 uals) which are to be applicable” and inserting “a  
 20 new exempt amount which shall be applicable”.

21 (2) CONFORMING AMENDMENTS.—Section  
 22 203(f)(8)(B) of the Social Security Act (42 U.S.C.  
 23 403(f)(8)(B)) is amended—

24 (A) in the matter preceding clause (i), by  
 25 striking “Except” and all that follows through

“whichever” and inserting “The exempt amount which is applicable for each month of a particular taxable year shall be whichever”;

(B) in clauses (i) and (ii), by striking “corresponding” each place it appears; and

(C) in the last sentence, by striking “an exempt amount” and inserting “the exempt amount”.

(3) REPEAL OF BASIS FOR COMPUTATION OF SPECIAL EXEMPT AMOUNT.—Section 203(f)(8)(D) of the Social Security Act (42 U.S.C. 403(f)(8)(D)) is repealed.

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) ELIMINATION OF REDUNDANT REFERENCES TO RETIREMENT AGE.—Section 203 of the Social Security Act (42 U.S.C. 403) is amended—

(A) in subsection (c), in the last sentence, by striking “nor shall any deduction” and all that follows and inserting “nor shall any deduction be made under this subsection from any widow’s or widower’s insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60.”; and

1 (B) in subsection (f)(1), by striking clause  
 2 (D) and inserting the following: “(D) for which  
 3 such individual is entitled to widow’s or wid-  
 4 ower’s insurance benefits if such individual be-  
 5 came so entitled prior to attaining age 60,”.

6 (2) CONFORMING AMENDMENT TO PROVISIONS  
 7 FOR DETERMINING AMOUNT OF INCREASE ON AC-  
 8 COUNT OF DELAYED RETIREMENT.—Section  
 9 202(w)(2)(B)(ii) of the Social Security Act (42  
 10 U.S.C. 402(w)(2)(B)(ii)) is amended—

11 (A) by striking “either”; and

12 (B) by striking “or suffered deductions  
 13 under section 203(b) or 203(c) in amounts  
 14 equal to the amount of such benefit”.

15 (d) EFFECTIVE DATE.—The amendments and re-  
 16 peals made by subsections (a), (b), and (c) shall apply with  
 17 respect to taxable years ending after December 31, 2002.

18 **SEC. 3. USE OF ALL YEARS IN COMPUTATION.**

19 (a) USE OF ALL YEARS OF EARNINGS IN BENEFIT  
 20 COMPUTATION.—Section 215(b)(2)(B) of the Social Secu-  
 21 rity Act (42 U.S.C. 415(b)(2)(B)) is amended by striking  
 22 clauses (i) and (ii) and inserting the following:

23 “(i)(I) for calendar years before 2010, the term  
 24 ‘benefit computation years’ means those computation  
 25 base years equal in number to the number deter-

1       mined under subparagraph (A) plus the applicable  
 2       number of years determined under subclause (III),  
 3       for which the total of such individual's wages and  
 4       self-employment income, after adjustment under  
 5       paragraph (3), is the largest;

6               “(II) for calendar years after 2009, the term  
 7       ‘benefit computation years’ means all of the com-  
 8       putation base years; and

9               “(III) for purposes of subclause (I), the applica-  
 10       ble number of years is the number of years specified  
 11       in connection with the year in which such individual  
 12       reaches early retirement age (as defined in section  
 13       216(l)(2)), or, if earlier, the calendar year in which  
 14       such individual dies, as set forth in the following  
 15       table:

<b>“If such calendar year is:</b>	<b>The applicable number of years is:</b>
Before 2001 .....	0
2001 .....	1
2002 .....	2
2003 .....	3
2004 .....	4
2005 .....	5
2006 .....	6
2007 .....	7
2008 .....	8
2009 .....	9;

16               “(ii) the term ‘computation base years’ means  
 17       the calendar years after 1950, except that such term  
 18       excludes any calendar year entirely included in a pe-  
 19       riod of disability; and”.

(b) CONFORMING AMENDMENT.—Section 215(b)(1)(B) of the Social Security Act (42 U.S.C. 415(b)(1)(B)) is amended by striking “in those years” and inserting “in an individual’s benefit computation years determined under paragraph (2)(A)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefit computation years beginning after December 31, 2000.

**SEC. 4. ACTUARIAL ADJUSTMENT FOR RETIREMENT.**

(a) EARLY RETIREMENT.—

(1) IN GENERAL.—Section 202(q) of the Social Security Act (42 U.S.C. 402(q)) is amended—

(A) in paragraph (1)(A), by striking “ $\frac{5}{9}$ ” and inserting “the applicable fraction (determined under paragraph (12))”; and

(B) by adding at the end the following:

“(12) For purposes of paragraph (1)(A), the ‘applicable fraction’ for an individual who attains the age of 62 in—

“(A) any year before 2001, is  $\frac{5}{9}$ ;

“(B) 2001, is  $\frac{7}{12}$ ;

“(C) 2002, is  $\frac{11}{18}$ ;

“(D) 2003, is  $\frac{23}{36}$ ;

“(E) 2004, is  $\frac{2}{3}$ ; and

“(F) 2005 or any succeeding year, is  $\frac{25}{36}$ .”.

1           (2) MONTHS BEYOND FIRST 36 MONTHS.—Sec-  
 2           tion 202(q) of such Act (42 U.S.C. 402(q)(9)) (as  
 3           amended by paragraph (1)) is amended—

4                   (A) in paragraph (9)(A), by striking “five-  
 5                   twelfths” and inserting “the applicable fraction  
 6                   (determined under paragraph (13))”; and

7                   (B) by adding at the end the following:

8           “(13) For purposes of paragraph (9)(A), the ‘applica-  
 9           ble fraction’ for an individual who attains the age of 62  
 10          in—

11                   “(A) any year before 2001, is  $\frac{5}{12}$ ;

12                   “(B) 2001, is  $\frac{16}{36}$ ;

13                   “(C) 2002, is  $\frac{16}{36}$ ;

14                   “(D) 2003, is  $\frac{17}{36}$ ;

15                   “(E) 2004, is  $\frac{17}{36}$ ; and

16                   “(F) 2005 or any succeeding year, is  $\frac{1}{2}$ .”.

17           (3) EFFECTIVE DATE.—The amendments made  
 18           by paragraphs (1) and (2) shall apply to individuals  
 19           who attain the age of 62 in years after 1999.

20           (b) DELAYED RETIREMENT.—Section 202(w)(6) of  
 21           the Social Security Act (42 U.S.C. 402(w)(6)) is  
 22           amended—

23                   (1) in subparagraph (C), by striking “and” at  
 24                   the end;



1 (2) in subparagraph (D), by striking “2004.”  
 2 and inserting “2004 and before 2007;” and

3 (3) by adding at the end the following:

4 “(E)  $1\frac{17}{24}$  of 1 percent in the case of an indi-  
 5 vidual who attains the age of 62 in a calendar year  
 6 after 2006 and before 2009;

7 “(F)  $\frac{3}{4}$  of 1 percent in the case of an indi-  
 8 vidual who attains the age of 62 in a calendar year  
 9 after 2008 and before 2011;

10 “(G)  $1\frac{19}{24}$  of 1 percent in the case of an indi-  
 11 vidual who attains the age of 62 in a calendar year  
 12 after 2010 and before 2013; and

13 “(H)  $\frac{5}{6}$  of 1 percent in the case of an indi-  
 14 vidual who attains the age of 62 in a calendar year  
 15 after 2012.”.

16 **SEC. 5. TEN PERCENT FICA TAX CUT FOR WORKERS WHO**  
 17 **HAVE REACHED RETIREMENT AGE.**

18 (a) IN GENERAL.—

19 (1) OLD-AGE, SURVIVORS, AND DISABILITY IN-  
 20 SURANCE.—Section 3101(a) of the Internal Revenue  
 21 Code of 1986 (relating to old-age, survivors, and dis-  
 22 ability insurance) is amended to read as follows:

23 “(a) OLD-AGE, SURVIVORS, AND DISABILITY INSUR-  
 24 ANCE.—

1           “(1) GENERAL EMPLOYEE RATE.—In addition  
 2           to other taxes, there is hereby imposed on the in-  
 3           come of every individual who has not attained the  
 4           retirement age (as defined in section 216(l) of the  
 5           Social Security Act) a tax equal to 6.2 percent of  
 6           the wages (as defined in section 3121(a)) received by  
 7           him with respect to employment (as defined in sec-  
 8           tion 3121(b)).

9           “(2) RETIREMENT EMPLOYEE RATE.—In addi-  
 10          tion to other taxes, there is hereby imposed on the  
 11          income of every individual who has attained the re-  
 12          tirement age (as defined in section 216(l) of the So-  
 13          cial Security Act) a tax equal to 5.58 percent of the  
 14          wages (as defined in section 3121(a)) received by  
 15          him with respect to employment (as defined in sec-  
 16          tion 3121(b)).”.

17          (2) HOSPITAL INSURANCE.—Section 3101(b) of  
 18          the Internal Revenue Code of 1986 (relating to hos-  
 19          pital insurance) is amended to read as follows:

20          “(b) HOSPITAL INSURANCE.—

21                 “(1) GENERAL EMPLOYEE RATE.—In addition  
 22                 to the tax imposed by the preceding subsection,  
 23                 there is hereby imposed on the income of every indi-  
 24                 vidual who has not attained the retirement age (as  
 25                 defined in section 216(l) of the Social Security Act)

1 a tax equal to 1.45 percent of the wages (as defined  
 2 in section 3121(a)) received by him with respect to  
 3 employment (as defined in section 3121(b)).

4 “(2) POST RETIREMENT EMPLOYEE RATE.—In  
 5 addition to the tax imposed by the preceding sub-  
 6 section, there is hereby imposed on the income of  
 7 every individual who has attained the retirement age  
 8 (as defined in section 216(l) of the Social Security  
 9 Act) a tax equal to 1.305 percent of the wages (as  
 10 defined in section 3121(a)) received by him with re-  
 11 spect to employment (as defined in section  
 12 3121(b)).”.

13 (b) SELF-EMPLOYED INDIVIDUALS.—

14 (1) OLD-AGE, SURVIVORS, AND DISABILITY IN-  
 15 SURANCE.—Section 1401(a) of the Internal Revenue  
 16 Code of 1986 (relating to old-age, survivors, and dis-  
 17 ability insurance) is amended to read as follows:

18 “(a) OLD-AGE, SURVIVORS, AND DISABILITY INSUR-  
 19 ANCE.—

20 “(1) GENERAL EMPLOYEE RATE.—In addition  
 21 to other taxes, there shall be imposed for each tax-  
 22 able year, on the self-employment income of every  
 23 individual who has not attained the retirement age  
 24 (as defined in section 216(l) of the Social Security

1 Act), a tax equal to 12.40 percent of the amount of  
 2 the self-employment income for such taxable year.

3 “(2) RETIREMENT EMPLOYEE RATE.—In addi-  
 4 tion to other taxes, there shall be imposed for each  
 5 taxable year, on the self-employment income of every  
 6 individual who has not attained the retirement age  
 7 (as defined in section 216(l) of the Social Security  
 8 Act), a tax equal to 11.78 percent of the amount of  
 9 the self-employment income for such taxable year.”.

10 (2) HOSPITAL INSURANCE.—Section 1401(b) of  
 11 the Internal Revenue Code of 1986 (relating to hos-  
 12 pital insurance) is amended to read as follows:

13 “(b) HOSPITAL INSURANCE.—

14 “(1) GENERAL EMPLOYEE RATE.—In addition  
 15 to the tax imposed by the preceding subsection,  
 16 there shall be imposed for each taxable year, on the  
 17 self-employment income of every individual who has  
 18 not attained the retirement age (as defined in sec-  
 19 tion 216(l) of the Social Security Act), a tax equal  
 20 to 2.9 percent of the amount of the self-employment  
 21 income for such taxable year.

22 “(2) POST RETIREMENT EMPLOYEE RATE.—In  
 23 addition to the tax imposed by the preceding sub-  
 24 section, there shall be imposed for each taxable year,  
 25 on the self-employment income of every individual

1       who has not attained the retirement age (as defined  
2       in section 216(l) of the Social Security Act), a tax  
3       equal to 2.755 percent of the amount of the self-em-  
4       ployment income for such taxable year.”.

5       (c) EFFECTIVE DATE.—The amendments made by  
6       this section shall apply with respect to taxable years end-  
7       ing after December 31, 2000.

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